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REACHLOCAL, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

REACHLOCAL, INC., a Delaware
corporation,

Plaintiff,

v.

PPC CLAIM LIMITED, a British limited
company; KIERAN PAUL CASSIDY,
an individual; and DOES 1-50,

Defendants.

Case No. 2:16-cv-01007-R-AJW

Judge: Hon. Manuel L. Real

PROTECTIVE ORDER

1 WHEREAS, Plaintiff ReachLocal, Inc. (“ReachLocal”) and Defendants
2 PPC Claim Limited (“PPC Claim”) and Kieran Paul Cassidy (collectively the
3 “Parties”) agree that disclosure and discovery activity in this action is likely to
4 involve the production of proprietary business information concerning the
5 Parties;

6 WHEREAS, good cause exists for the issuance of a protective order to
7 maximize efficiencies in the conduct of fact discovery, to protect certain
8 confidential, proprietary, and trade secret information and to ensure the
9 preservation of relevant evidence, the Court hereby enters the following
10 Protective Order (“Order”):

11 1. The following procedures shall govern the production of all
12 materials (whether in electronic, hard copy or computer readable form) during
13 discovery and presentation to the Court of pleadings in this action, including but
14 not limited to, answers to interrogatories, requests for admissions, all documents
15 produced by parties and nonparties, responses to subpoenas duces tecum,
16 deposition testimony, information contained therein, information provided
17 during any settlement discussions, and all information and documents already
18 provided by the producing or authoring party (collectively, “Discovery
19 Material”).

20 2. The following definitions shall apply to this Order:

21 a. The “Designating Party” shall mean the producing or
22 authoring party of the Discovery Material.

23 b. The “Receiving Party” shall mean the party receiving
24 Discovery Material.

25 c. “Confidential Information” means any Discovery Material,
26 which contains non-public, confidential or proprietary information, whether
27 personal or business related, including, without limitation, non-public personally
28 identifying information held by a Designating Party on behalf of its customers

1 and users that may be used to identify a specific individual as set forth in Title 18,
2 United States Code, Section 1028(d)(7) and California Civil Code §1798.80(e).
3 Certain limited types of “Confidential Information” may be further designated, as
4 defined and detailed below, as “Attorney’s Eyes Only Information.”

5 d. “Attorney’s Eyes Only Information” shall mean documents or
6 information that the Designating Party deems in good faith to constitute or refer to
7 trade secrets and sensitive financial or competitive information or Sensitive
8 Customer Information.

9 e. “Protected Information” shall mean Confidential Information
10 and Attorney’s Eyes Only Information.

11 f. “Sensitive Customer Information” shall mean confidential,
12 non-public financial account information about a Designating Party’s customer.

13 3. The following instructions shall apply:

14 a. All Confidential and Attorneys Eyes Only designations shall
15 be made in good faith by the Designating Party and made at the time of disclosure,
16 production, or tender to the Receiving Party, or at such other time as permitted by
17 this Order, provided that the inadvertent failure to so designate does not constitute
18 a waiver of such claim, and a party may so designate Discovery Material after
19 such inadvertent failure, subject to the protections of this Order. Designations of
20 Confidential or Attorneys Eyes Only shall constitute a representation that such
21 Discovery Material has been evaluated by an attorney for the Designating Party
22 and that there is a valid and good faith basis for such designation, and that
23 disclosure of such information to persons other than those permitted access to
24 such material hereunder would cause injury to the Designating Party or non-party.

25 b. The designation of Discovery Material in the form of
26 documents, responses to admissions and interrogatories, or other tangible
27 materials (including, without limitation, CD-ROMs and tapes) other than
28 depositions or other pre-trial testimony, as Protected Information shall be made by

1 the Designating Party in the following manner, and shall not be disclosed to
2 anyone else.

3 i. Documents designated “Confidential” shall be so
4 marked by conspicuously affixing the legend “CONFIDENTIAL” or
5 “CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER” or similar
6 designation on each page containing any Confidential Information (or, in the case
7 of computer medium, on the medium and its label and/or cover) to which the
8 designation applies. Such designated Discovery Material shall be identified by
9 Bates number. To the extent practical, the Confidential legend shall be placed
10 near the Bates number.

11 ii. Documents designated “Attorney’s Eyes Only” shall be
12 so marked by conspicuously affixing the legend “ATTORNEY’S EYES ONLY”
13 or “ATTORNEY’S EYES ONLY PURSUANT TO PROTECTIVE ORDER” or
14 similar designation on each page containing any Attorney’s Eyes Only
15 Information (or, in the case of computer medium, on the medium and its label
16 and/or cover) to which the designation applies. Such designated Discovery
17 Material shall be identified by Bates number. To the extent practical, the
18 Attorney’s Eyes Only legend shall be placed near the Bates number.

19 c. If a document has more than one designation, the more
20 restrictive or higher confidentiality designation applies.

21 d. Only information or material that the Designating Party shall,
22 in good faith, deem Protected Information shall be so designated, but an entire
23 document or materials may be designated as Protected Information if any part of it
24 contains Protected Information, unless the Designating Party elects to designate
25 only portions of the document or material as Protective Information. The
26 attorneys of record for such Designating Party shall be deemed to have certified
27 that such counsel believes that the designation has been made in good faith and
28 that there are substantial grounds in law and fact to support the designation.

1 4. Protected Information shall not include any Discovery Materials
2 which:

3 a. Have been or become lawfully in the possession of the
4 Receiving Party without obligations of confidentiality through other litigation or
5 communications other than production or disclosure in this action; or

6 b. Are or have been publicly available website pages; or

7 c. Have been or become publicly available not due to any
8 unauthorized act or omission on the part of the Receiving Party.

9 Nothing herein shall impose any restriction on the use or disclosure by a party of
10 its own documents or information.

11 5. Subject to sections 7 and 8 of this Order, “Qualified Persons” having
12 access to Discovery Material designated “Attorney’s Eyes Only” under this
13 Order, in this action are the following and no one else:

14 a. The party’s inside counsel and retained counsel of record,
15 including their stenographic, clerical and paralegal employees whose duties and
16 responsibilities require access to such materials; and employees or agents of
17 counsel of record (including reputable litigation support firms) to the extent
18 reasonably necessary to render professional services in this action and provided
19 that such persons are actively engaged in the prosecution or defense of this
20 action;

21 b. The Court or any other court having jurisdiction over
22 discovery procedure in this action (if filed under seal) or any special master or
23 mediator appointed to this action;

24 c. (i) retained outside independent consultants and/or retained
25 independent experts who are employed to furnish expert or technical services in
26 connection with discovery or preparation for trial who are, respectively not
27 otherwise affiliated in any way with either party and who have complied with the
28 provisions in section 7, including the completion of Exhibit A;

1 d. stenographic and video reporters engaged in proceedings
2 incident to this action; and

3 e. outside document copying services. Notwithstanding any
4 other provision of this Order, access to Protected Information shall be permitted
5 to such vendors, without need for the completion of Exhibit A. The outside
6 counsel providing Protected Information to outside document copying services
7 shall be responsible for that service's compliance with the provisions of this
8 Order.

9 6. "Qualified Persons" having access to Discovery Material designated
10 "Confidential Information" under this Order, in this action are the following:

11 a. persons entitled to receive Attorney's Eyes Only Information
12 pursuant to section 5; and

13 b. parties and party representatives assigned to and necessary to
14 assist in the conduct of this action and who have complied with the provisions in
15 section 7 including the completion of Exhibit A.

16 7. Before any person described in Section 5(d)(i) is given access to
17 Protected Information, the individual to whom disclosure is to be made shall first
18 read this Order and then sign and date a declaration substantially in the form
19 attached hereto Exhibit A. A copy of such declarations shall be held by counsel of
20 record for the party disclosing the Protected Information. At least three (3)
21 business days prior to disclosing Attorney's Eyes Only Information to any person
22 described in section 5(c)(i), the person or party making such disclosure shall
23 provide counsel for the Designating Party with a copy of the declaration signed by
24 the expert or consultant to whom disclosure is being made. Providing the
25 Designating Party with a copy of the declaration signed by the expert consultant
26 does not, in itself, render that expert or consultant subject to any discovery,
27 including a deposition.

1 8. A party designating documents or information as “Confidential” or
2 “Attorney’s Eyes Only” may object to the disclosure of such documents to any
3 person described in section 5(c)(i) whose identity has been disclosed pursuant to
4 section 7 by giving written notice to the producing party and to all other parties.
5 If such dispute cannot be resolved within five (5) business days of the receipt of
6 such notice, the objecting party may file a motion with the Court within the next
7 five (5) business days for a ruling seeking to prevent such disclosure. No
8 disclosure shall be made to the attorney, expert, or consultant until the objecting
9 party’s timely motion has been decided.

10 9. Qualified Persons defined in section 6(b) shall be allowed access to
11 Protected Information only after complying with the following procedure:

12 a. Before receiving access to any Protected Information, the
13 person shall be furnished with a copy of this Order and shall acknowledge, by
14 executing the acknowledgment form attached hereto as Exhibit A, that he or she
15 has read this Order, understands it, and agrees to be bound by it, and also
16 expressly consents to the jurisdiction of this Court in connection with any
17 proceeding or hearing relating to the enforcement of this Order.

18 b. Outside counsel for each Receiving Party shall retain a copy of
19 each such acknowledgement form (Exhibit A).

20 10. Protected Information and the substance or content thereof, including
21 any notes, memoranda or other similar documents relating thereto, shall be used
22 by a Receiving Party solely for the purpose of this action and any appeals
23 therefrom and shall not be made available, or disclosed, or summarized to any
24 persons, including the parties, their affiliates, parents, or related entities, other
25 than as permitted by the terms of this Order. However, nothing in this Order
26 shall bar or otherwise restrict any trial counsel from rendering advice to his client
27 with respect to this litigation and, in the course thereof, relying generally upon
28 his examination of documents or information designated as Confidential

1 Information. Attorney's Eyes Only Information, provided, however, that in
2 rendering such advice and to otherwise communicating with his clients, the trial
3 counsel shall not disclose any content or the source of such information or
4 documents contrary to the terms of this Order. Protected Information shall be
5 maintained by the Receiving Party or their counsel under the overall supervision
6 of outside counsel.

7 11. The Receiving Party may assert that documents, information and
8 materials produced by the Designating Party contain or reflect the Receiving
9 Party's own trade secrets and, confidential and proprietary business and financial
10 information or Sensitive Customer Information. The Receiving Party must make
11 such assertions within twenty-one (21) business days of receipt of such
12 documents or any subsequent event that would render publicly available
13 documents previously produced confidentially or under seal. The Designating
14 Party shall then make all reasonable efforts to determine whether such
15 documents, information, and materials contain or reflect the Receiving Party's
16 own trade secrets and, confidential and proprietary business and financial
17 information or Sensitive Customer Information, and if it disagrees, agrees the
18 parties shall proceed on the schedule and in accordance with the procedures
19 provided in Paragraph 23 for judicial resolution, with the materials retaining its
20 protection pending such resolution.

21 12. Any person in possession of Protected Information shall exercise
22 reasonably appropriate care with regard to the storage, custody or use of such
23 Information in order to ensure that the Confidential and Attorney's Eyes Only
24 nature of the same is maintained and that it is not shared with any person or used
25 for any purpose not expressly authorized by this Order.

26 13. If Protected Information is disclosed to anyone other than in a
27 manner authorized by this Order, the party responsible for such disclosure must
28 immediately bring all pertinent facts relating to such disclosure to the attention of

1 the Designating Party of the Protected Information and make every reasonable
2 effort to retrieve such Information and to prevent further disclosure.

3 14. When the Protected Information is discussed, quoted or referred to in
4 any deposition, the disclosing party shall ensure that only persons permitted by
5 sections 5-6 of this Order have access to such Protected Information are present.
6 Nothing in this Order shall limit or restrict any party's right to inquire about or
7 show Protected Information to a deponent that is an officer, director, employee,
8 or agent of the party or non-party that produced the Protected Information. In
9 connection with any deposition, the witness may, at deposition or its preparation,
10 be examined about or shown a document or thing containing designated
11 Protected Information with the consent of the party producing the same (which
12 consent shall not be unreasonably withheld), or if it appears from the face of the
13 document that the witness authored or received a copy of it or if the witness is
14 authorized under section 5-6 of this Order to have access to such Protected
15 Information.

16 15. Nothing in this Order shall prevent a party from using any Discovery
17 Materials designated as Protected Information at depositions, during a hearing or
18 motion or the trial, but the party using such Information or material must request
19 that the portion of the proceeding be maintained under seal in accordance with
20 section 20 hereof, with access thereto limited to persons entitled to access under
21 this Order. If any party intends to disclose Protective Information in open court,
22 the disclosing party shall first reasonably inform the opposing party, so that such
23 opposing party may request that the disclosure be made in camera.

24 16. Nothing herein shall prevent disclosure if each party designating
25 information as Confidential Information or Attorney's Eyes Only Information
26 consents to such disclosure.

27 17. Any deposition transcript containing Protected Information shall be
28 marked on the cover, as appropriate, and shall indicate within the transcript what

1 information has been so designated. Whenever possible, the stenographic
2 reporter shall be requested, prior to the deposition (where the attorneys have
3 reason to believe the testimony will contain Protected Information) or when the
4 Protected Information is disclosed (when not previously anticipated), to separate
5 those portions of the transcript containing said Protected Information and
6 separately bind it from the non-confidential portions. However, a party may
7 designate any portion or all (if appropriate) of the transcript as containing
8 Confidential Information or Attorney's Eyes Only Information by so advising,
9 with reasonable precision as to the affected testimony, the deposition reporter,
10 who shall, accordingly, indicate in the deposition transcript what portions of the
11 testimony (or exhibits thereto) were so designated, or by so advising all other
12 parties in writing, and with page and line designations, within ten (10) business
13 days after receipt of the transcript. Until ten (10) business days have passed after
14 the receipt of any transcript, that entire transcript shall be deemed to be
15 Attorney's Eyes Only Information. In the event of disagreement about the
16 confidential status of a deposition transcript, it shall continue to be treated
17 Confidential or Attorney's Eyes Only whichever protection is being sought, until
18 this Court rules otherwise.

19 18. If a party, through inadvertence, produces any Protected Information
20 without labeling or marking or otherwise designating it as such in accordance
21 with the provisions of this Order, the producing party may give written notice to
22 the receiving party that the document or thing produced is deemed Protected
23 Information and should be treated as such in accordance with the provisions of
24 this Order, along with a replacement copy properly marked. The Receiving Party
25 shall treat such documents and things as Confidential Information or Attorney's
26 Eyes Only Information from the date such notice is received. Disclosure, prior to
27 the receipt of such notice, of such Confidential Information or Attorney's Eyes
28 Only Information to persons not authorized to receive Confidential Information

1 or Attorney's Eyes Only Information shall not be deemed a violation of this
2 Order.

3 19. Protected Information (including portions of documents or
4 transcripts) or any document, pleading or brief which discloses the substance or
5 content of Protected Information used in connection with any motion, or written
6 submission, hearing or trial in this action, shall be filed, under seal, for the
7 Court's in camera inspection. To assist the Clerk, any document or object placed
8 under seal, pursuant to this Order, shall be filed in the Clerk's Office in a sealed
9 envelope or other appropriately sealed container on which shall be endorsed the
10 title and docket number of this action, an identification of the nature of the
11 contents of the sealed envelope or container, and the words "Under Seal –
12 Subject to Protective Order Contains Confidential or Attorney's Eyes Only
13 Information" and shall otherwise comply with the Court's order on the subject.
14 Any party that electronically files any Discovery Material that reflect, contain, or
15 include any information or documents subject to this Order shall take the
16 necessary actions to ensure that the discovery materials are filed and kept by the
17 Court under seal. Any Discovery Material or other information that a
18 Designating Party had designated Confidential or Attorney's Eyes Only and
19 therefore may be freely disclosed.

20 20. In the event that any pleading is filed Under Seal in this action, the
21 party filing that document will also file a public, redacted version of the
22 document deleting the information that is not subject to confidentiality
23 designation.

24 21. Entering into this stipulated protective order, agreeing to and/or
25 producing or receiving Protected Information or otherwise complying with the
26 terms of this Order shall not:

27 a. operate as an admission by any party that any Discovery
28 Material designated as Protective Information contains or reflects trade secrets or

1 any other type of confidential or proprietary information entitled to protection
2 under applicable law or this Order;

3 b. prejudice in any way the rights of any party to object to the
4 production of documents it considers not subject to discovery, or operate as an
5 admission to any party that the restrictions and procedures set forth herein
6 constitute adequate protection for any particular information deemed by any party
7 to be Protected Information;

8 c. prejudice in any way the rights of any party to object to the
9 authenticity or in evidence of any document, testimony or the evidence subject to
10 this Order;

11 d. prejudice in any way the rights of any party to seek a
12 determination by the Court whether any Discovery Material or Protected
13 Information should be subject to the terms of the Order;

14 e. prejudice in any way the rights of any party to petition the
15 Court for a further protective order relating to any purportedly Protected
16 Information;

17 f. prejudice in any way the rights of any party to petition the
18 Court for permission to disclose or use particular Protected Information more
19 broadly than would otherwise be permitted by the terms of this Order;

20 g. prevent any Designating Party from agreeing to alter or waive
21 the provisions or protection provided for herein with respect to any particular
22 Discovery Material designated as Protected Information by that party;

23 h. prejudice in any way the rights of any party to assert or resist
24 the assertion of, any claim or defense, including a procedural defense or
25 challenge.

26 22. The signing of this Order or failure of a party, at the time it receives
27 Discovery Materials designated as Protected Information, to challenge or object
28 to the Protective Information designation shall not be deemed a waiver of its right

1 to challenge or object to the Protected Information designation at any later time.
2 Any party may, at any time, request permission to use or disclose information
3 with Confidential or Attorney's Eyes Only designations other than as permitted,
4 or may request a change in the designation of the Protected Information pursuant
5 to this section, by serving (by email and facsimile with confirmed transmission) a
6 written request upon counsel for the Designating Party. Such request shall
7 specifically identify the Protected Information sought to be disclosed, including
8 the Bates number of the documents(s), and if (a) the party seeks to disclose the
9 information to a person, then the party must include that person's name, title, and
10 function and notice that the person has complied with the provisions in section 9,
11 including the completion of Exhibit A; or (b) the party seeks to modify the
12 designation of the document, then the party must provide a justification for the
13 change in the designation of the document. The Designating Party shall
14 thereafter respond to the request in writing within ten (10) business days after
15 receipt of same. Absent good cause shown, a failure to respond within such time
16 shall constitute consent to the request. If where consent has been withheld, the
17 parties are subsequently unable to agree on either the terms and conditions of the
18 disclosure or the proposed change in designation within five (5) business days
19 thereafter, the matter may be submitted to the Court for resolution upon motion
20 by the party seeking either the disclosure or the changed designation, and such
21 disclosure or change shall be postponed until a ruling has been obtained from the
22 Court.

23 23. Notwithstanding any default provisions of this Order providing for
24 confidential treatment, in the event of disagreement, the party asserting
25 confidentiality shall have the burden of proving that the information at issue is
26 entitled to the protection of this Order.

27 24. All provisions of this Order restricting the use of information
28 obtained during discovery shall continue to be binding on the parties and all

1 persons who have received information under this Order, after the conclusion of
2 this action, including all appeals, unless the parties agree otherwise in writing.
3 Any and all original and copies of Discovery Material designated as Protected
4 Information shall, at the request of the Designating Party, be returned to the party
5 within sixty (60) calendar days after a final judgment herein or settlement of this
6 action, or, at the option of the Receiving Party, destroyed in that time frame,
7 except that outside counsel for each party may maintain in its files (in paper
8 copies and/or electronically) pleadings filed with the Court, written discovery
9 responses served on the parties, each deposition transcript, together with the
10 exhibits marked at the deposition, the trial transcript together with trial exhibits,
11 and documents constituting work product which were internally generated based
12 upon or which include Protected Information. In the event that outside counsel
13 maintains such documents, it shall not disclose material containing any type of
14 Protected Information to another party absent subpoena or court order. Upon
15 receipt of any subpoena for such Protected Information, the party receiving the
16 subpoena shall immediately notify outside counsel for the Designating Party of
17 the subpoena so that the latter may protect its interests. In the event that
18 documents are returned to or destroyed at the request of the producing or
19 receiving party, the other party or its outside counsel shall certify, in writing, that
20 all such documents have been returned or destroyed, as the case may be.

21 25. This Order is not intended to deal with any discovery objections on
22 the grounds of attorney-client privilege or work product immunity or to preclude
23 any party from seeking relief either from a provision of this Order or any other
24 relief from this Court, which may be appropriate under the Federal Rules of Civil
25 Procedure. The inadvertent production of any privileged or otherwise protected
26 or exempted information, as well as the inadvertent production of information
27 without an appropriate designation of confidentiality, shall not be deemed a
28 waiver or impairment of any claim of privilege or protection including, but not

1 limited to, the attorney-client privilege, the protection afforded to work-product
 2 materials or the subject matter thereof, or the confidential nature of any such
 3 Information provided that the Designating Party shall immediately notify
 4 Receiving Party, in writing, when inadvertent production is discovered. If
 5 prompt notification is made and the Designating Party describes in detail the
 6 circumstances surrounding the document's alleged inadvertent production, then
 7 the Receiving Party shall, upon request:

8 a. return or destroy all such inadvertently produced documents
 9 and all copies thereof, or

10 b. place all such inadvertently produced documents and all copies
 11 thereof in a sealed envelope and move the Court for an order on this issue.
 12 Counsel for the Receiving Party shall not use such information for any purpose
 13 until further order of the Court.

14 Any analyses, memoranda or notes which are internally generated based upon
 15 such inadvertently produced Discovery Materials shall immediately be treated in
 16 conformance with either subparagraph (a) or (b) hereof.

17 26. Any party to this Order may move the Court for relief deemed
 18 appropriate based upon a violation of the terms of this Order pursuant to the
 19 procedures provided for by the Federal Rules of Civil Procedure and this Court's
 20 Local Rules.

21 27. Until such time as this Order or an alternative protective order has
 22 been entered by the Court, the parties agree that upon execution by the parties, it
 23 will be treated as though it has been "So Ordered."

24 28. Third parties who produce information in this action may avail
 25 themselves of the provisions of this Order, and Discovery Material produced by
 26 third parties shall be treated by the parties in conformance with this Order. As
 27 necessary or appropriate, a party may request that a non-party execute Exhibit A
 28 to this Order.

EXHIBIT A**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, _____ [print or type full name], of
 _____ [print or type full address], declare
 under penalty of perjury that I have read in its entirety and understand the
 Stipulated Protective Order (“Order”) that was issued by the United States District
 Court for the Central District of California on _____ in Case No. 2:16-
 cv-01007-R-AJW. I agree to comply with and to be bound by all the terms of this
 Order and I understand and acknowledge that failure to so comply could expose
 me to sanctions and punishment in the nature of contempt. I solemnly promise that
 I will not disclose in any manner any information or item that is subject to this
 Order to any person or entity except in strict compliance with the provisions of this
 Order.

I further agree to submit to the jurisdiction of the United States District
 Court for the Central District of California solely for the purpose of enforcing the
 terms of this Order, even if such enforcement proceedings occur after termination
 of this action.

I further agree to service of process by first class mail at the address listed
 above and waive any objections to service of process by first class mail.

DATED: _____
